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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,649	08/30/2005	Hiroaki Momose	NGBCP008	5195
<div>25920 7590 09/30/2008 MARTINE PENILLA & GENCARELLA, LLP 710 LAKEWAY DRIVE SUITE 200 SUNNYVALE, CA 94085</div>				
EXAMINER				
HUYNH, CONG LAC T				
ART UNIT		PAPER NUMBER		
2178				
MAIL DATE		DELIVERY MODE		
09/30/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/520,649

Applicant(s)

MOMOSE ET AL.

Examiner

Cong-Lac Huynh

Art Unit

2178

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-15, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-15, 18-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This action is responsive to communications: amendment filed 6/24/08 to the application filed on 1/7/05.
2. Claims 1-11, 16-17 are canceled.
3. Claims 18-19 are added.
4. Claims 12-15, 18-19 are pending in the case. Claims 12-15 are independent claims.
5. The 112, second paragraph rejections of claims 1, 3-4 have been withdrawn in view of the cancellation of these claims.
6. The 101 rejection of claim 15 has been withdrawn in view of the amendment.
7. The 101 rejection of claim 16 has been withdrawn in view of the cancellation of the claim.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
9. Claims 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. Claim 18 recites "the read use limitation data" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.
11. Claim 19 recites "the read use limitation data" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

12. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

13. Claim 13 remains rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 13 is directed to a display data processing apparatus. However, none of claimed elements of the claimed apparatus is a physical part of a device, so that they constitute part of a device or a combination of devices to be machine within the meaning of 101.

Instead, the claimed elements of these apparatuses are merely software per se.

Therefore, the claim fails to fall within a statutory category of invention.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

15. Claims 12-15, 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Fox et al. (US 2005/0140788, 06/30/05, filed 1/4/05).

Regarding independent claim 12, Fox discloses:

- selecting addition of a watermark to an image element of a content file (abstract, [0058]: apply a watermark to a digital picture shows addition of a watermark to an image element of a content file)
- generating a single package file from the content file, a layout control file for controlling a layout of the image element, and control data used for removing the watermark, wherein the content file is stored in a first section of the package file, the layout control file is stored in a second section of the package file and the control data is stored in a third section of the package file ([0037], figure 3, [0040], [0045]: figure 3 shows a single JPEG file created from the content file 70, where the position information in the picture included in the caption marker is for controlling a layout of the image element ([0038]) and the marker section control the layout of the photograph ([0058], [0053]) and the password included in the header marker for protecting the data of the picture from editing as well as for removing the watermark ([0056]-[0057], [0064])

Fox further discloses that:

- the content file is stored in a first section of the package file (figure 3: the JPEG file 70 is the content of the photograph in a section, considered as first section of the package)
- the layout control is stored in a second section of the package file (figure 3: the position information is the caption marker, which is a second section of the package)

- the control data is stored in a third section of the package file (figure 3: the password for controlling the photograph in the header marker, which is the third section of the package)

Claim 13 is for a display data processing apparatus for method claim 12, and is rejected under the same rationale.

Regarding independent claim 14, Fox discloses:

- reading a package file storing content data in which a watermark is added to an image element thereof, in a first section thereof ([0058] and figure 3: JPEG file with stored watermark applied to the digital picture), layout control data for controlling a layout of the image element in a second section thereof ([0038], [0053], [0058], figure 3), and control data in a third section thereof ([0056]-[0057])
- removing the watermark from the content data and displaying the content data under the control of the layout control data, when the control data stored in the third section indicates an appropriate value ([0064]-[0065], [0045], [0056])

Claim 15 is for a display data processing apparatus of method claim 14, and is rejected under the same rationale.

Regarding claim 18, which is dependent on claim 14, Fox discloses:

- managing to permit or inhibit individual use of the content data in response to the read use limitation data ([0013], [0020], [0056]).

Claim 19 is for a corresponding apparatus of method claim 18, and is rejected under the same rationale.

Conclusion

16. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art of record is listed on PTO 892.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cong-Lac Huynh whose telephone number is 571-272-4125. The examiner can normally be reached on Mon-Thurs (8:30-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Hong can be reached on 571-272-4124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Cong-Lac Huynh/
Primary Examiner, Art Unit 2178
9/25/08

